REMARKS

Claims 1-4, 9-24, 26, 30-32, and 52, 63-84 are now pending. No claims stand allowed.

Claims 5-8, 25, 27-29, and 33-51 had been cancelled without prejudice. Claims 53-62 have been cancelled by this amendment without prejudice.

Claims 1-4, 9-24, 30-32, and 52 have been amended to further particularly point out and distinctly claim subject matter regarded as the invention. The amendment also contains minor changes of a clerical nature.

New claims 63-84 have been added by this amendment and also particularly point out and distinctly claim subject matter regarded as the invention.

No new matter has been introduced by the amendment.

The 35 U.S.C. § 102 Rejection

Claims 9 stands rejected under 35 U.S.C. §102(e) as being allegedly anticipated by Farber et al. (U.S. Pat. No. 6,185,598). The rejection is respectfully traversed.

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ 2d 1051, 1053 (Fed. Cir. 1987). "The identical invention must be shown in as complete detail as is contained in the ... claim." *Richardson v. Suzuki Motor Co.*, 869 F.2d 1226, 1236, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). *See also*, M.P.E.P. §2131.

Claim 9, as amended, defines a local server for enabling a data communications

network to recover from a failure of said local sever, the data communications network

including a backup server and a network access server (NAS), the NAS coupling a call

placed from a call-in user to the data communications network, the NAS having a

memory associated therewith. The claimed local server comprises (a) an encoder for

generating an information packet associated with an ongoing call, the information packet

containing call information for maintaining connection of the ongoing call if the local

server fails, and (b) a sender for transmitting the information packet from the encoder to

the memory associated with the NAS, the information packet being stored in the memory

to be available to the backup server if the local server fails, as recited in claim 9.

The Examiner equates Farber's origin server **102** including the reflector **108** with

the claimed local server comprising the encoder and the sender. The reflector **108**

intercepts requests from the client **106** and either serves the request locally at the origin

server **102** or forwards it to one of the repeaters **104a**, **104b**, etc. (Abstract, FIG. 1, and

column 5, lines 2-25 of Farber). The reflector **108** may be co-located or fully integrated

with the origin server **102** (column 4, lines 57-48, column 5, lines 26-33 of Farber).

However, although Farber's reflector **108** analyzes the request from the client

106, it only creates a new resource identifier (URL) using the requested URL by the

client **106** and the best repeater if the origin server **102** decides not to return the requested

resource (column 8, lines 23-26 of Farber), otherwise, the requested resource is returned

to the client **106**. The new resource identifier indicates an alternative location of the

same resource at the selected "best" repeater, and is returned to the client **106** as a reply

called "REDIRECT" (column 7, lines 19-21, and 29-32 of Farber). Since the new

resource identifier indicates the location of the requested resources, i.e., where the

requested resource would be found, the client 106 that receives the "REDIRECT" reply

can access and reach the selected repeater to obtain the requested resources. Thus, such

resource information to be used by the client 106 does not contain call information of the

ongoing call placed by the client 106 itself, as recited in claim 9.

Furthermore, as discussed above, the origin server 102 sends back the

"REDIRECT" reply to the client 106, not to anywhere else or a memory associated with

the NAS to be stored therein so as to be available to the repeater 104 (alleged backup

server) if the local server fails, as recited in claim 9. It should be noted that in the case

where the client 106 is a repeater, the origin server 102 returns the requested resources,

but not the "REDIRECT" reply (column 7, lines 59-60), and thus the repeater 104 would

never receive the resource information in Farber. In addition, even if the repeater

somehow obtained the resource information indicating the resource location on that

repeater, the repeater would not be able to know call information regarding the call

placed by the client 106.

Therefore, Farber fails to disclose, teach, or suggest (a) an encoder for generating

an information packet associated with an ongoing call, the information packet containing

call information for maintaining connection of the ongoing call if the local server fails,

and (b) a sender for transmitting the information packet from the encoder to the memory

associated with the NAS, the information packet being stored in the memory to be

available to the backup server if the local server fails, as recited in claim 9.

Accordingly, it is respectfully requested that the rejection of claim based on

Farber be withdrawn. In view of the foregoing, it is respectfully asserted that the claim is

now in condition for allowance.

The 35 U.S.C. § 103 Rejection

Claims 1-4, 10-24, 26, 30-32, and 52-62 stand rejected under 35 U.S.C. §103(a)

as being allegedly unpatentable over Farber in view of Arnon et al. (U.S. Pat. No.

6,242,999). This rejection is respectfully traversed.

According to M.P.E.P. §2143,

> To establish a *prima facie* case of obviousness, three basic criteria must be met.
> First there must be some suggestion or motivation, either in the references
> themselves or in the knowledge generally available to one of ordinary skill in the
> art, to modify the reference or to combine reference teachings. Second, there
> must be a reasonable expectation of success. Finally, the prior art reference (or
> references when combined) must teach or suggest all the claim limitations. The
> teaching or suggestion to make the claimed combination and the reasonable
> expectation of success must both be found in the prior art, not in the applicant's
> disclosure.

Claim 1, as amended, defines a backup server for enabling a data communications

network to recover from a local server failure, the data communications network

including a network access server (NAS) for coupling a call placed from a call-in user to

the data communications network, the NAS having a memory associated therewith. The

claimed backup server comprises (a) an information packet requester responsive to the

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local server failure, the information packet requester requesting and receiving from the memory associated with the NAS an information packet associated with an ongoing call, the information packet containing call information of the ongoing call for maintaining connection of the ongoing call, and (b) a parser for reconstructing the call information from the information packet such that the backup server maintains the ongoing call to the data communications network, as recited in claim 1.

As discussed above, Faber neither teaches nor suggests the information packet containing call information of the ongoing call for maintaining connection of the ongoing call to the data communications network, as recited in claim 1.

Furthermore, as discussed above, when Farber's repeater **104** (alleged backup server) issues a request (as the client **106**), the request "must be served locally by the origin server **102**" (column 7, lines 59-60 of Farber). That is, in Farber, the repeater **104** only issues a request directly to the origin server **102** (alleged local server), but not to a NAS, as recited in claim 1, and receives the requested resources, but not the call information of the ongoing call, as recited in claim 1. In addition, Farber also fails to teach or suggest any parser reconstructing such call information for the same reasons discussed above.

Accordingly, Farber does not teach or suggest a backup server comprising the information packet requester (a) and the parser (b), as claimed in claim 1.

Furthermore, as the Examiner correctly mentions in the Office Action, Farber neither teaches nor suggests any failure of the origin server or any function responsive to such failure.

Amon teaches a backup system for restoring information lost from the master device (mass storage subsystem 12(*m*)). However, Anron's backup system is not related to any call from a user, or call information of an ongoing call for maintaining connection of the ongoing call.

Accordingly, Farber, whether considered alone or combined with or modified by Amon, does not teach or suggest the information packet requester or the parser as claimed in claim 1. Thus, it is respectfully requested the rejection based on Farber and Amon be withdrawn.

Claim 13, 17, 20, and 30, as amended, also recite the call information for maintaining connection of the call as discussed above, and include similar distinctive features of receiving, transmitting, storing, or parsing the information packet containing the call information. Therefore, these claims are also allowable at least for the same reasons set forth above.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.

Dependent Claims

Claims 2-4 depend from claim 1, claims 10-12 depend from claim 9, claims 14-16 depend from claim 13, claim 18-19 depend from 17, claim 21-24 and 26 depend from claim 20, and claim 31-32 depend from claim 30, and thus include the limitations of the respective independent claims. The argument set forth above is equally applicable here. The base claims being allowable, the dependent claims must also be allowable.

In view of the foregoing, it is respectfully asserted that the claims are now in condition for allowance.
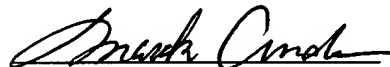
Request for Allowance

It is believed that this Amendment places the above-identified patent application into condition for allowance. Early favorable consideration of this Amendment is earnestly solicited.

If, in the opinion of the Examiner, an interview would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the number indicated below.

Respectfully submitted,
THELEN REID & PRIEST, LLP

Dated: September ___3___, 2003

Masako Ando
Limited Recognition under 37 CFR §10.9(b)

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